

STATE OF TENNESSEE
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF:)	
)	
SOUTHSTAR FUNDING, LLC,)	TDFI No. 07-11-C
d/b/a CAPITAL HOME MORTGAGE)	
)	

EMERGENCY CEASE AND DESIST ORDER

The Commissioner of the Tennessee Department of Financial Institutions (the “Commissioner”), having determined that he has reason to believe that SouthStar Funding, LLC, doing business as Capital Home Mortgage, has violated and is violating the Tennessee Residential Lending, Brokerage and Servicing Act of 1988, Tenn. Code Ann. §§ 45-13-101, *et seq.* (the “Act”), and that circumstances warrant immediate action, hereby issues the following EMERGENCY CEASE AND DESIST ORDER pursuant to Tenn. Code Ann. §§ 45-1-107(a)(4) and (c), and Tenn. Code Ann. § 45-13-116.

JURISDICTION AND IDENTIFICATION OF THE PARTIES

1. Pursuant to Tenn. Code Ann. § 45-1-104, the Tennessee Department of Financial Institutions (the “Department”) is charged with the execution of all laws relative to persons doing or engaged in a banking or other business as provided in Title 45 of the Tennessee Code.

2. Tenn. Code Ann. § 45-1-107(a)(4) provides that, in addition to other powers conferred by Title 45 of the Tennessee Code, the Commissioner has the power to order any person to cease violating a provision of Title 45 of the Tennessee Code or lawful

regulation issued thereunder, and Tenn. Code Ann. § 45-13-116 provides that if, after notice and opportunity for a hearing, the Commissioner finds that a person has violated the Act or administrative rule issued pursuant to the Act, the Commissioner may take any or all of certain actions, one of which is to order the person to cease and desist violating the Act or any administrative rule issued pursuant to the Act.

3. Under Tenn. Code Ann. §§ 45-1-107(c), notice and opportunity for a hearing shall be provided in advance of the Commissioner issuing such an order, except that in cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action but shall promptly afford a subsequent hearing upon application to rescind the action taken.

4. SouthStar Funding, LLC, doing business as Capital Home Mortgage (“SouthStar”) is a Delaware for-profit limited liability company, authorized to do business in Tennessee, with its principal office located at 400 Northridge Road, Suite 1000, Atlanta, Georgia 30350, and its registered agent in Tennessee is Corporation Service Company, 2908 Poston Avenue, Nashville, Tennessee 37203. SouthStar is currently a registrant with the Department as a mortgage lender under the Act, having been issued certificate of registration number 1251.

FACTUAL ALLEGATIONS

5. The factual allegations contained herein are based upon information that the Department has learned and gathered through media reports, communications with the Respondent, and examination of the records of the Respondent.

6. As of April 2, 2007, SouthStar had a combined total of approximately twenty-one mortgage loans involving Tennessee consumers and/or Tennessee residential real property in some stage of processing (so-called loans in the “pipeline”). On information and belief, three (3) of those loans had been closed, but remain unfunded.

7. SouthStar does not have the ability, at present or in the foreseeable future, to fund any of the loans in the pipeline, including any of the loans that have closed.

8. SouthStar continued to accept mortgage loans for processing when it knew or should have known that it would be unable to close and fund the loans.

9. Pursuant to communications with and from an officer of SouthStar on April 10, 2007, SouthStar has admitted that it is unable to fund any mortgage loans at this time.

10. Tenn. Code Ann. § 45-13-108 provides that the Commissioner may suspend or revoke any license or registration issued under the Act if the Commissioner finds that the licensee or registrant is guilty of any of certain enumerated acts, each of which thus constitutes a violation of the Act.

11. Pursuant to Tenn. Code Ann. § 45-13-108(2), conduct of a manner which would warrant the denial of an application for a license or registration is a violation of the Act, and Tenn. Code Ann. § 45-13-105(a) provides, among other things, that in order for an applicant to qualify for a license or registration under the Act, the Commissioner must find that the applicant has the financial responsibility to warrant the belief that the business of the applicant will be operated lawfully and within the purposes of the Act. The factual allegations demonstrate that SouthStar currently lacks the required financial responsibility.

12. Pursuant to Tenn. Code Ann. § 45-13-108(a)(9), failure to disburse funds in accordance with a written agreement is a violation of the Act. The failure of SouthStar to have funded the closed loans is thus a violation of the Act.

13. The likelihood exists that persons dealing with SouthStar may suffer irreparable harm, in that SouthStar does not have the current ability to fund any mortgage loans; therefore, these extraordinary circumstances require immediate action by the Department.

EMERGENCY ORDER

Having considered the factual allegations, the Commissioner has determined that SouthStar has violated and is violating the Act, and that circumstances warrant immediate action.

IT IS HEREBY ORDERED that SouthStar shall immediately cease and desist from engaging in business as a mortgage lender with respect to any Tennessee consumers and/or any residential real property located in Tennessee, except as expressly provided herein, until such time as SouthStar is able to satisfactorily demonstrate to the Commissioner that it is able to engage in business lawfully and within the purposes of the Act.

IT IS HEREBY FURTHER ORDERED that SouthStar shall fully comply with all of the obligations to each consumer who has a mortgage loan currently pending, approved, or closed but not funded, with SouthStar.

The provisions of this ORDER shall remain in full force and effect unless and until such time as any provision shall have been modified, terminated, suspended or

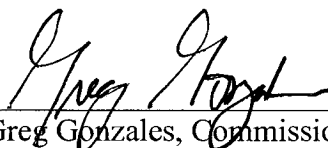
set aside by the Commissioner, an administrative judge, or any court having jurisdiction over the matters addressed herein.

RIGHTS OF SOUTHSTAR FUNDING, LLC

SouthStar has the right to a hearing for the purpose of contesting and obtaining rescission of this ORDER. If a separate hearing is timely requested by SouthStar, any such hearing shall be conducted in accordance with the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and Chapter 0180-6 of the Rules of the Department.

In order to request a hearing, SouthStar must file a written request within twenty (20) days from receipt of this ORDER. If no such written request is timely filed, then this EMERGENCY CEASE AND DESIST ORDER will be deemed final for all purposes. Any written request for a hearing must be filed with the Commissioner, Tennessee Department of Financial Institutions, Nashville City Center, 511 Union Street, 4th Floor, Nashville, TN 37219.

ISSUED this 13 day of April, 2007.



Greg Gonzales, Commissioner
Tenn. Dept. of Financial Institutions